NAME OF BIDDER: ……

CSD NUMBER: ……

TENDER PRICE ……

EMAIL & CONTACT NUMBER ……

CLOSING DATE **19 JUNE 2024 @ 12H00**

REQUEST FOR FORMAL WRITTEN QUOTATIONS

NOTICE 2 OF 2024 - PROVISION OF COMPANY SECRETARY SERVICES ON AN AD-HOC BASIS UP TO A PERIOD OF 12 MONTHS (RE-ADVERT)

Buffalo City Metropolitan Development Agency hereby invites suitably qualifying Service Providers to submit formal written quotations for provision of company secretary services on a ad-hoc basis up to a period of 12 months.

Enquiries should be addressed to A. Manciya at email address: aviwe@bcmda.org.za.

The detailed specifications are attached hereunder.

To ensure responsiveness to the notice Service Providers to take note of the following requirements (Compliance Evaluation):

1. Service Providers must be registered on National Treasury's Central Supplier Database and submit a summary report as proof of registration or alternatively reflect the CSD supplier number on their proposal;
2. All prospective/interested Service Providers should complete the MBD 4, MBD 6.1, MBD 7.1, MBD 8, MBD 9 and Declaration of Bidder forms which are appended to the notice document;
3. Bidders must meet the minimum requirements stipulated in section 7 below;
4. Tenderers are required to submit valid proof of claims for specific goals as stipulated in MBD 6.1 below.
5. All prices must be inclusive of VAT, where applicable;
6. Use of Tippex and erasable ink will result in non- responsiveness.
7. Service Providers must submit confirmation that the bidder's municipal accounts are not in arrears for a period exceeding 3 months. Such confirmation must be for the company must be as follows:
    - statements of municipal accounts showing the age of the municipal debt; OR
    - a tenderers debt clearance certificate from their respective municipality that is stamped and signed by that municipality; OR
    - lease agreements (signed by both lessor and lessee) must be submitted and must be supported by:
    - a written confirmation from the lessor stating that the bidder is not in arrears with regards to their payment obligations in terms of the lease agreement.
8. IN ADDITION TO 6 ABOVE: Service Providers must submit confirmation that its directors' municipal accounts are not in arrears for a period exceeding 3 months. Such confirmation must be for the directors and must be as follows:
    - statements of municipal accounts showing the age of the municipal debt; OR

- a tenderers debt clearance certificate from their respective municipality that is stamped and signed by that municipality; OR
- lease agreements (signed by both lessor and lessee) must be submitted and must be supported by:
- a written confirmation from the lessor stating that the bidder is not in arrears with regards to their payment obligations in terms of the lease agreement.

9. BCMDA reserves the right to request further written information or clarification on any aspect pertaining to this tender;
10. Quotations received after the specified closing time and date will not be considered;
11. The BCMDA does not bind itself to accept the lowest priced tender or any tender and reserves the right to accept the whole or part of the tender.
12. All quotations are valid for 90 days after the closing date;
13. Quotations must be sealed and completed in full. Unsigned or quotations submitted by facsimile, will not be accepted;
14. BCMDA will not take responsibility for incorrectly delivered quotations sent by courier. It is the bidder's responsibility to make sure that their quotation is correctly delivered in the tender box on or before the closing date of this notice;
15. **The proposal or quotation must demonstrate the ability to meet the requirements detailed on the terms of reference below.**
16. **NO QUOTATIONS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE AS DEFINED IN THE LOCAL GOVERNMENT MUNICIPAL FINANCE MANAGEMENT ACT 56 OF 2003: MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS.**
17. **EMAILED QUOTATIONS WILL NOT BE ACCEPTED;**

Failure to submit the documents requested above will result in a tender being considered non-responsive and therefore not considered for the award of the contract, with the exception of the additional proof required under the specific goals section.

EVALUATION CRITERIA:

Quotations meeting the tender conditions shall be evaluated on 80/20 basis, in line with the PPPFA. Responses to this NOTICE shall be evaluated on:

A. **Compliance evaluation**
B. **Functionality evaluation (minimum of 70 points required)**
C. **The 80/20 preference point system, detailed in the tender document, will be used as follows:**

CRITERIA	POINTS
Price	**80**
Specific goals	**20**
Total points for Price and SPECIFIC GOALS	**100**

Quotations must be submitted in hard copy in a sealed envelope, clearly marked: *NOTICE 2 OF 2024 - PROVISION OF COMPANY SECRETARY SERVICES ON AN AD-HOC BASIS UP TO A PERIOD OF 12 MONTHS (RE-ADVERT) and must be deposited in the QUOTATIONS BOX, At the offices of the Buffalo City Metropolitan Development Agency, 12 Esplanade Road, Quigney, East London, 5201 NOT LATER THAN THE CUT-OFF TIME OF 12H00, 19 JUNE 2024.*

TERMS OF REFERENCE

PROVISION OF COMPANY SECRETARY & LEGAL SERVICES ON AN AD-HOC BASIS UP TO A PERIOD OF 12 MONTHS.

SECTION 1: INTRODUCTION AND BACKGROUND

The Buffalo City Metropolitan Development Agency (BCMDA) is a municipal entity wholly owned by the Buffalo City Metropolitan Municipality. It is a successor to the Buffalo City Development Agency that was established as a non-profit company by the Municipality in 2004. As the legislation evolved, it was deemed necessary to become a profit-orientated company and was established as a profit company on 20 April 2016, in terms of the Companies Act, 1973 as amended. This allows the Agency to transact, generate funds, and have a borrowing capacity to carry its mandate to increase economic growth through tourism, economic and social development as well as property management and commercialization.

SECTION 2: PROJECT PURPOSE/ OBJECTIVES

The purpose of the project is to acquire the services of a suitably qualifying service provider for provision of company secretary services on an ad-hoc basis up to a period of 12 months.

SECTION 3: PROJECT OUTCOMES/ OUTPUTS/DELIVARABLES

The service provider must take note of the following project scope and deliverables when developing the proposal:

1) Attend Board meetings and all subcommittee meetings as per outlined in the Board meeting calendar;

2) Attend all ad-hoc Board and Board subcommittee meetings as and when required;

3) Assist with providing the directors of the company collectively and individually with guidance as to their duties, responsibilities and powers;

4) Advise of any relevant laws and regulations relevant to or affecting the company, particularly on the Companies Act and the relevant and applicable King Codes;

5) Reporting any failure on the part of the company or a director to comply with the Memorandum of Incorporation or rules of the company or the Companies Act;

6) Ensuring that minutes of all Board, Board Subcommittee meetings, any meeting involving the Board or its subcommittee are properly recorded in accordance with the Companies Act. The minutes will be prepared by the Company Secretary (preferred bidder) and made available for review by the BCMDA and subsequently submitted to the BCMDA Board within 7 working days after each meeting held;

7) Preparation, updating and maintenance of Board and Sub-Committee resolutions register;

8) Preparing and submission of the annual returns and provision of proof to the project manager;

9) Ensuring and confirm that the company's annual financial statements have been certified and whether the company has filed required returns and notices in terms of the Companies Act, and whether all such returns and notices appear to be true, correct and up to date. The Company Secretary will be responsible for certification of the Annual Financial Statement.

10) Ensuring that a copy of the company's annual financial statements is sent, in accordance with the Companies Act, to every person who is entitled to it.

11) Managing and overseeing compliance with corporate governance requirements.

12) Attend to CIPC Requirements including but not limited to Filing of Annual return, Audited AFS, updating directors details and MOI amendments

13) Performing statutory and non-statutory duties.

14) Providing legal opinions and advice to the Board on relevant legislation as and when required.

15) Conducting of the hand-over process and submission of hand over report when required.

SETION 4: PROJECT TIMEFRAME

The contract term is for one Service Provider to assist on an ad-hoc basis for a period of 12 months.

SETION 5: PRICING INSTRUCITONS

The bidder must provide a proposal that clearly reflects a total price that is inclusive of all services to be performed. The table below must be used in this regard:

Service Description	**Rate per hour**
Attending Board Meetings	
Attending Sub-Committee (including Audit and Risk Committee) Meetings	
Preparing meeting minutes	
Attending to CIPC Requirements including but not limited to Filing of Annual return, Audited AFS, updating directors details and MOI amendments	
TOTAL AGGREGATED RATES EXCL VAT	
VAT AT 15%	
TOTAL AGGREGATED RATES INCL VAT	

BCMDA is to be invoiced based on the actual expenditure incurred (actual meetings attended and minutes prepared and approved) in each instance - relevant to portfolio of evidence to be provided with each invoice.

SETION 6: ADDITIONAL MANDATORY REQUIREMENTS

1. Bidders must submit the following in respect of the Team Leader:
   a. CV of team leader demonstrating at least 5 years experience in the provision of company secretariat experience in an organ of the state;
   b. A copy of at least an NQF Level 7 qualification in the relevant field;
2. Bidders must submit at least 3 letters of reference from organs of state confirming the provision of company secretariat services by the bidder or its representatives.

Failure to meet requirements 1 and 2 above will result in the bid being rendered non-responsive.

DECLARATION OF INTEREST

1. No bid will be accepted from persons in the service of the state[1].

2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.

3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

3.1 Full Name of bidder or his or her representative:……..

3.2 Identity Number: …….

3.3 Position occupied in the Company (director, trustee, hareholder[2]):……..

3.4 Company Registration Number: …….

3.5 Tax Reference Number:……

3.6 VAT Registration Number: ……

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars. ……

……..

[1]MSCM Regulations: "in the service of the state" means to be –

(a) a member of –
  (i) any municipal council;
  (ii) any provincial legislature; or
  (iii) the national Assembly or the national Council of provinces;

(b) a member of the board of directors of any municipal entity;
(c) an official of any municipality or municipal entity;
(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
(e) an executive member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature.

[2] Shareholder" means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

3.9 Have you been in the service of the state for the past twelve months? ……**YES / NO**

3.9.1 If yes, furnish particulars……..……..

……

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? …… **YES / NO**

3.10.1 If yes, furnish particulars.

……

……

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? **YES / NO**

3.11.1 If yes, furnish particulars

……

……

3.12 Are any of the company's directors, trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.12.1 If yes, furnish particulars.

……

……

3.13 Are any spouse, child or parent of the company's directors trustees, managers, principle shareholders or stakeholders in service of the state? **YES / NO**

3.13.1 If yes, furnish particulars.

……

……

3.14 Do you or any of the directors, trustees, managers, principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract. **YES / NO**

3.14.1 If yes, furnish particulars:

……..

……..

4. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	State Employee Number

…….. ……..

Signature **Date**

……. ……

Capacity **Name of Bidder**

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

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1. GENERAL CONDITIONS

1.1 **The following preference point systems are applicable to invitations to tender:**

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 **Preference point system applicable to this RFQ**

a) The applicable preference point system for this tender is the 80/20 preference point system.

1.3 **Points for this tender shall be awarded for:**

(a) Price; and

(b) Specific Goals.

1.4 **The maximum points for this tender are allocated as follows:**

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	**100**

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

(a) **"tender"** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

(b) **"price"** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

(c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

(d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and

(e) **"the Act"** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 PREFERENCE POINT SYSTEMS

A maximum of 80 points is allocated for price on the following basis:

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated **in table 1 below**:

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

***Note to tenderers: The tenderer must indicate how they claim points for each preference point system.*)**

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)	Required proof for specific goals claimed
B-BBEE Level one to two status contributor	14		B-BBEE certificate confirming B-BBEE level one status contribution
Enterprise owned by majority black women	3		Detailed CSD report / detailed B-BBEE certificate demonstrating black women ownership
Enterprise owned by majority black youth	2		Detailed CSD report / detailed B-BBEE certificate demonstrating black youth ownership
Enterprise owned by majority disabled person(s)	1		Proof from Registered Medical Practitioner / SARS exemption (ITR-DD Form) / CSD detailed report
TOTAL POINTS	**20**		

DECLARATION WITH REGARD TO COMPANY/FIRM

4.2. Name of company/firm…….

4.3. Company registration number: ……...

4.4. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One-person business/sole propriety
- ☐ Close corporation
- ☐ Public Company
- ☐ Personal Liability Company
- ☐ (Pty) Limited
- ☐ Non-Profit Company
- ☐ State Owned Company

[TICK APPLICABLE BOX]

4.5. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender,

qualifies the company/ firm for the preference(s) shown and I acknowledge that:

i) The information furnished is true and correct;

ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;

iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct;

iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –

(a) disqualify the person from the tendering process;

(b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;

(c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

(d) recommend that the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution, if deemed necessary.

…… **SIGNATURE(S) OF TENDERER(S)** **SURNAME AND NAME**: …… **DATE:** …… **ADDRESS**: …… …… …… ……

PART I – FORM OF OFFER

(To be filled by the bidder)

a) I hereby undertake to supply all goods / works / service as described in the attached bidding documents:

_____ (Name of Company) in accordance with the requirements and specification stipulated in this document with **NOTICE 2 OF 2024** at the prices by quoted. My offer remains binding upon me and open for acceptance by the BCMDA during the validity period indicated and calculated from the closing time of bid.

b) THE OFFERED TOTAL OF THE PRICE INCLUSIVE OF VALUE ADDED TAX IS:

_____

_____Rand (in words);

R_____ (in figures)

c) Binding documents, viz
   - Invitation to bid
   - Pricing schedule
   - Specification
   - Declaration of interests
   - Form of offer and acceptance
   - General and Special conditions of the contract
   - Other (please specify)

     _____

d) I confirm that I have satisfied myself as to the correctness and validity of my bid that the prices and rates quoted cover all the goods/ works / services specified in the bidding documents; that the prices and rates cover all my obligations and I accept that any mistakes regarding prices / rates and calculations will be at my own risk.

e) I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this agreement as the principal liable for the due fulfilment of this contract.

f) I declare that I have no participation in any collusive practices with any bidder or any other person regarding this bid or any other bid.

g) Certify that the information furnished on declaration forms is true and correct.

h) I accept that, in addition to cancellation of a contract, action may be taken against me should the declarations proved to be false.

i) A Service Level Agreement (SLA) will be signed on acceptance of your offer which will detail the conditions of contract.

j) I confirm that I am duly authorised to sign this bid and the contract.

Signed at _____ on this_____ day of _____ 2024.

Name & Surname: _____

Capacity: _____

Signature: _____

Name of Firm: _____

Date: _____

Initials & Surname of Witness: _____

12.2 PART II – ACCEPTANCE FORM
(To be filled by the BCMDA)

a) I _____ in my capacity as

_____ accept your bid under reference **NOTICE 2 OF 2024** for the supply of goods / works / services indicated hereunder and further specified in the annexure(s).

b) I undertake to make payment for the goods delivered / works / services rendered in accordance with the terms and conditions of this contract within 30 (thirty) days after receipt of invoice accompanied by proof of delivery note /.

c) I confirm that I am duly authorised to sign this contract.

Signed at _____ on this ____ day of _____ 2024.

Initials & Surname:

_____

Signature:

_____

Name of Institution:

_____

Date:

_____

Initials & Surname of Witness:

_____

DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

1 This Municipal Bidding Document must form part of all bids invited.

2 It serves as a declaration to be used by municipalities and municipal entities in ensuring that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.

3 The bid of any bidder may be rejected if that bidder, or any of its directors have:

a. abused the municipality's / municipal entity's supply chain management system or committed any improper conduct in relation to such system;
b. been convicted for fraud or corruption during the past five years;
c. willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
d. been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

4 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
4.1	Is the bidder or any of its directors listed on the National Treasury's Database of Restricted Suppliers as companies or persons prohibited from doing business with the public sector? (Companies or persons who are listed on this Database were informed in writing of this restriction by the Accounting Officer/Authority of the institution that imposed the restriction after the *audi alteram partem* rule was applied). **The Database of Restricted Suppliers now resides on the National Treasury's website(www.treasury.gov.za) and can be accessed by clicking on its link at the bottom of the home page.**	Yes ☐	No ☐
4.1.1	If so, furnish particulars:		
4.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? **The Register The Register for Tender Defaulters can be accessed on the National Treasury's website (www.treasury.gov.za) by clicking on its link at the bottom of the home page.**	Yes ☐	No ☐
4.2.1	If so, furnish particulars:		
4.3	Was the bidder or any of its directors convicted by a court of law (including a court of law outside the Republic of South Africa) for fraud or corruption during the past five years?	Yes ☐	No ☐

4.3.1	If so, furnish particulars:		
Item	**Question**	**Yes**	**No**
4.4	Does the Does Is the bidder or any of its directors owe any municipal rates and taxes or municipal charges to the municipality / municipal entity, or to any other municipality / municipal entity, that is in arrears for more than three months?	Yes ☐	No ☐
4.4.1	If so, furnish particulars:		
4.5	Was any contract between the bidder and the municipality / municipal entity or any other organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes ☐	No ☐
4.7.1	If so, furnish particulars:		

CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) ……..……..……CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

……... ……..
Signature **Date**

……. ……..
Position **Name of Bidder**

Js367bW

MBD 9

CERTIFICATE OF INDEPENDENT BID DETERMINATION

1 This Municipal Bidding Document (MBD) must form part of all bids[1] invited.

2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).[2] Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.

3 Municipal Supply Regulation 38 (1) prescribes that a supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer, among others, to:

a. take all reasonable steps to prevent such abuse;

b. reject the bid of any bidder if that bidder or any of its directors has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system; and

c. cancel a contract awarded to a person if the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract.

4 This MBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.

5 In order to give effect to the above, the attached Certificate of Bid Determination (MBD 9) must be completed and submitted with the bid:

[1] Includes price quotations, advertised competitive bids, limited bids and proposals.

[2] Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

_____

(Bid Number and Description)

in response to the invitation for the bid made by:

_____

(Name of Municipality / Municipal Entity)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of:_____that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign, the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
    (a) has been requested to submit a bid in response to this bid invitation;
    (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
    (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder
6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium[3] will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
    (a) prices;
    (b) geographical area where product or service will be rendered (market allocation)

(c) methods, factors or formulas used to calculate prices;

(d) the intention or decision to submit or not to submit, a bid;

(e) the submission of a bid which does not meet the specifications and conditions of the bid; or

(f) bidding with the intention not to win the bid.

8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

[3] Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

…….. ……..

Signature Date

…….. ……

Position Name of Bidder

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DECLARATION OF BIDDER

The undersigned, who warrants that he / she is duly authorised to do so on behalf of the enterprise: i) authorizes the Employer to obtain a tax clearance certificate from the South African Revenue Services that my / our tax matters are in order; ii) confirms that neither the name of the enterprise or the name of any partner, manager, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears on the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004; iii) confirms that no partner, member, director or other person, who wholly or partly exercises, or may exercise, control over the enterprise appears, has within the last five years been convicted of fraud or corruption; iv) confirms that I / we are not associated, linked or involved with any other tendering entities submitting tender offers and have no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest; and iv) confirms that the contents of this questionnaire are within my personal knowledge and are to the best of my belief both true and correct.
SIGNATURE
NAME
ENTERPRISE NAME